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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,221	02/13/2002	Leonard J. Fabiano, III	E005.P001U1	3271
25854 7590 12/13/2007 BRYAN W. BOCKHOP, ESQ. BOCKHOP & ASSOCIATES, LLC 2375 MOSSY BRANCH DR. SNELLVILLE, GA 30078			EXAMINER RETTA, YEHDEGA	
			ART UNIT 3622	PAPER NUMBER
			MAIL DATE 12/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/674,221

Applicant(s)

FABIANO, III, LEONARD J.

Examiner

Yehdega Retta

Art Unit

3622

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 11-23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to amendment filed October 2, 2007. Claims 1-10 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 6 and 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Virgin et al. (US 6,826,542).

Regarding claim 1, Virgin teaches providing a broker platform (Central Invoicing System) receiving from a plurality of presentation entities invoice information; organizing the invoice information into categories; preparing at least one consolidated invoice corresponding to a particular advertiser and forwarding the consolidated invoice to the advertiser (abstract, col. 2 lines 37-43, col. 8 line 63 to col. 9, line 8, col. 12 lines 47-67).

Regarding claim 5, Virgin teaches extracting relevant information from the invoice information from plurality of entities transforming the relevant information into a common document model; storing the transformed information and retrieving information from the database and outputting at least some of the information in the invoice for forwarding to the advertiser (payor) (see col. 12 lines 47-67).

Regarding claim 6, Virgin teaches a first interface for receiving from a plurality of presentation entities invoice information; a processor and memory for organizing the invoice information into a categories, functionally adapted to prepare at least one consolidated invoice corresponding to a particular advertiser (payor); a database in the memory for storing the categorized invoice information; a second interface for forwarding the consolidated invoice to the advertiser (payor) (see abstract, fig. 2 & 4, col. 2 lines 37-43, col. 8 lines 63-67, col. 12 lines 47-67).

Regarding claim 10, Virgin teaches parsing invoice information from plurality of presentation entities; transforming the relevant information into common document model; database for storing the information from the common document model and retrieving information from the database and output at least some of the information in a standard invoice form (see col. 12 lines 47-67).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Virgin et al. (US 6,826,542).

Regarding claim 2-4 and 7-9, Virgin teaches extracting information from the invoice or customizing the invoice according to payor's preference (see col. 8 lines 1-67). Virgin does not explicitly teach that one of the payors is an advertiser. Virgin also teach payer approving or

disputing the invoice (see fig. 9, col. 13 lines 36-63). Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to receive commercial aired, time the commercial aired, where the commercial aired and who the advertiser (payor) is, as part of the invoice, if the payor of Virgin is an advertiser. It would have also been obvious to one of ordinary skill in the art at the time of the invention for Virgin clients (payors or advertiser) to verify the invoice for error, as taught in Virgin.

Response to Arguments

Applicant's arguments filed October 2, 2007 have been fully considered but they are not persuasive. Applicant argues that Virgin et al. does not qualify under 35 U.S.C. § 102(e) because its earliest possible filing date was November 23, 1999 (assuming *arguendo* that the relevant portions of published patent were fully disclosed in the provisional application), whereas the present application (as evidenced by the filing of Provisional Application No. 60/122,136) has a date of invention of no later than February 26, 1999 - almost nine months *before* the earliest priority date of Virgin et al. Applicant asserts Virgin cannot qualify as a 102(e) reference (or as a reference under any other paragraph in section 102). Examiner agrees that applicant's earliest filing data is February 26, 1999, which is the filing date of the provisional application 60122136. However the provisional application (60122136) does not provide support for the claimed invention, i.e., providing a *broker platform receiving from a plurality of presentation entities invoice information; organizing the invoice information into categories; preparing at least one consolidated invoice corresponding to a particular advertiser and forwarding the consolidated invoice to the advertiser.*

The provision application teaches:

A good approach for the central processing system was already thought of by NCC management. They have been referring to what is needed as a Traffic & Billing system. What, in fact, is needed is a traffic & billing system with some modifications.

The general areas of functionality which are needed in a Traffic & Billing style application to support NTT are:

- Inventory Management
- Electronic Orders and Order Entry
- Schedule Optimization
- Schedule Dissemination
- Copy (Traffic) Instructions
- Verification/Makegoods
- Billing and Electronic Invoices

To summarize the above list, a traditional T&B system would need to be given a lot more data-throughput capability than normal and the ability to export cable system contracts rather than detailed insertion schedules.

The application also teaches

Billing and Electronic Invoices

Invoices are created according to specified cycles.

Invoices may be created in detailed or summary form as required by the agency.

Invoices are returned electronically to the agency via the VNI network.

A Sample To-do List for implementation

Develop Electronic Ordering and Invoicing interfaces to agency stewardship systems (In process)

- Sys codes ported for use into all stewardship systems
- Order Interface development is well underway and in testing with vendors like DDS and Datatech
- Invoice upload interfaces are operational with DDS agencies, Datatech agencies, and others are under varying stages of development or test
- Develop Electronic Contract, "As-run", Contract Update, and Affidavit interfaces to cable T&B vendors**

- Contract & Update Interface development underway
- Affidavit Interfaces for major packages in deployment
- "As-run" Interfaces not yet specified

-Develop System Enhancements

- Develop a "Buyers Worksheet" Online for agencies
- Proposal generator Online to Buyers Worksheet for electronic avail requests and proposals
- Inventory Optimizer linked to IMS (inventory management) w/multiple levels of priority and reservation status for the planning & buying process
- On-line updates for CableTrak database
- On-line inventory status for cable systems on NTT sales

However the application does not provide enablement for *broker platform receiving from a plurality of presentation entities invoice information; organizing the invoice information into categories; preparing at least one consolidated invoice corresponding to a particular advertiser and forwarding the consolidated invoice to the advertiser.*

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 60122136, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application.

In response to Applicant's asserts that Virgin does not claim the same invention as claimed in the claims under examination in the present application, applicant's argument fails

to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Regarding the publication of patent application examiner directs the application to MPEP 903.04 (Patent applications filed on or after November 29, 2000>,< are published as a patent application publication pursuant to 35 U.S.C. 122(b), unless certain exceptions apply. See MPEP § 1120).

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yehdega Retta whose telephone number is (571) 272-6723. The examiner can normally be reached on 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Yehdega Retta
Primary Examiner
Art Unit 3622

YR